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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,343	05/05/2006	Gary J. Hawkes	71246.010100-F003	6649
34018	7590	05/18/2007		
GREENBERG TRAURIG, LLP 77 WEST WACKER DRIVE SUITE 2500 CHICAGO, IL 60601-1732			EXAMINER MONIKANG, GEORGE C	
			ART UNIT 2615	PAPER NUMBER
			MAIL DATE 05/18/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/578,343	Applicant(s) HAWKES ET AL.	
	Examiner George C. Monikang	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6; 21-22; 29-33; 48-49; 56-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6; 21-22; 29-33; 48-49; 56-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/578,343.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/5/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-6, 21-22, 29-33, 48-49, 56-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heijboer et al, WO 83/02349, in view of Eid et al, US Patent 7,177,432 B2, and further in view of Wilson et al, 5,854,902. (Reference WO 83/02349 has been cited in IDS filed 5/5/06 by applicant.)

Re Claim 1, Heijboer et al disclose a subliminal audio burglar deterrent system (abstract), comprising: a playback system operable to broadcast audible sounds (page 2, lines 7-11), the playback system including at least one loudspeaker, a signal amplifier, and a signal source (page 1, lines 24-27); media operably compatible with the playback system (page 1, lines 24-27); wherein the media includes at least one prerecorded dynamic audio signal, not consciously perceivable (page 1, lines 24-27),

operably configured to simulate the presence of at least one person or animal in a space being protected (page 1, lines 27-32); wherein the at least one prerecorded dynamic audio signal is recorded at a recording level that is relatively high as compared to the ambient background noise (page 1, lines 27-32); and wherein application of the subliminal audio burglar deterrent system has a subliminal effect on a listener so as to dissuade the listener from committing a burglary in the space being protected (page 1, lines 16-19); but fails to disclose wherein the at least one prerecorded dynamic audio signal further includes being capable of reproduction with maximum realism on a conventional sound reproduction system, which may be hidden or at least unobtrusive, being recorded utilizing primarily midrange and high audible frequencies with no compression of the at least one audio signal for maximum realism, being monaurally recorded for optimum concentration of sound dispersal. However, Eid et al does (col. 7, lines 28-30; col. 8, lines 4-12).

Heijboer et al and Eid et al fails to disclose being capable of endless playback with no perceived periods of silence greater than 10 seconds in length. However, Wilson et al does (col. 75, lines 5-27).

Taking the combined teachings of Heijboer et al, Eid et al and Wilson et al as a whole, one skilled in the art would have found it obvious to modify the subliminal audio burglar deterrent system (abstract), comprising: a playback system operable to broadcast audible sounds (page 2, lines 7-11), the playback system including at least one loudspeaker, a signal amplifier, and a signal source (page 1, lines 24-27); media operably compatible with the playback system (page 1, lines 24-27); wherein the media

includes at least one prerecorded dynamic audio signal, not consciously perceivable (page 1, lines 24-27), operably configured to simulate the presence of at least one person or animal in a space being protected (page 1, lines 27-32); wherein the at least one prerecorded dynamic audio signal is recorded at a recording level that is relatively high as compared to the ambient background noise (page 1, lines 27-32); and wherein application of the subliminal audio burglar deterrent system has a subliminal effect on a listener so as to dissuade the listener from committing a burglary in the space being protected (page 1, lines 16-19) of Heijboer et al with wherein the at least one prerecorded dynamic audio signal further includes being capable of reproduction with maximum realism on a conventional sound reproduction system, which may be hidden or at least unobtrusive, being recorded utilizing primarily midrange and high audible frequencies with no compression of the at least one audio signal for maximum realism, being monaurally recorded for optimum concentration of sound dispersal as taught in Eid et al (col. 7, lines 28-30; col. 8, lines 4-12) with being capable of endless playback with no perceived periods of silence greater than 10 seconds in length as taught in Wilson et al (col. 75, lines 5-27) so the system can produce sounds at different frequency levels and so that the system can produce back to back sound effects to continually scare of an attempt burglary.

Re Claim 2, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 1 wherein the media is a compact disk (CD) (Eid et al, col. 7, lines 31-34).

Re Claim 3, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 1 wherein the subliminal effect is achieved by recording the at least one prerecorded dynamic audio signal in a rhythm so as to engage the listener's mind unconsciously so as to create fear and trepidation (Heijboer et al, page 1, lines 16-19).

Re Claim 4, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 1 but fails to disclose wherein the subliminal effect is achieved by playback of at least one man's voice having a deep and serious tone.

However, such limitation is the inventor's preference thus it would have been obvious for the combined teachings of Heijboer et al, Eid et al and Wilson et al to modify subliminal audio burglar deterrent system with playback of at least one man's voice having a deep and serious tone for the motivation of scaring off a potential burglar.

Re Claim 5, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 1 wherein the at least one prerecorded dynamic audio signal contains recordings of household noises (Heijboer et al, page 1, lines 27-32).

Re Claim 6, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 5 wherein the household noises comprise at least one of the following: sounds of a vacuum cleaner (Heijboer et al, page 1, lines 27-32).

Re Claim 21, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 1 but fails to disclose wherein the at least one prerecorded dynamic audio signal contains recordings of workplace noises.

However, such limitation is the inventor's preference thus it would have been obvious for the combined teachings of Heijboer et al, Eid et al and Wilson et al to modify subliminal audio burglar deterrent system with prerecorded dynamic audio signal containing recordings of workplace noises for the motivation of scaring off a potential burglars in an office environment.

Re Claim 22, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 21 wherein the workplace noises comprise at least one of the following: sounds of at least one person's footsteps (Heijboer et al, page 1, lines 27-32).

Claim 29 has being analyzed and rejected according to claim 1.

Claim 30 has been analyzed and rejected according to claim 3.

Claim 31 has been analyzed and rejected according to claim 4.

Claim 32 has been analyzed and rejected according to claim 5.

Claim 33 has been analyzed and rejected according to claim 6.

Claim 48 has been analyzed and rejected according to claim 21.

Claim 49 has been analyzed and rejected according to claim 22.

Re Claim 56, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 1, wherein the media also includes at least one

prerecorded audio signal that is consciously perceivable by a listener (Heijboer et al, abstract).

Re Claim 57, the combined teachings of Heijboer et al, Eid et al and Wilson et al disclose the invention according to claim 56, wherein the at least one consciously perceivable prerecorded audio signal contains content that is deterrent in nature to an intruder (Heijboer et al, page 1, lines 27-32).

Claim 58 has been analyzed and rejected according to claim 56.

Claim 59 has been analyzed and rejected according to claim 57.

### **Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone number is 571-270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George Monikang

5/10/2007

  
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